

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

AARON GRUBBS,)	
)	
Plaintiff,)	
)	
v.)	Case Number 2:05-cv-604
)	
CITY OF EUFAULA, ALABAMA,)	
)	
Defendant.)	

MOTION TO STRIKE

Defendant City of Eufaula, Alabama, makes a motion to strike the Plaintiff's punitive damages claim. In support of this motion, the Defendant says as follows.

1. The Plaintiff's complaint contains a cause of action under 42 U.S.C. § 1983 ("Civil action for deprivation of rights") that alleges a violation of 42 U.S.C. § 1981 ("Equal rights under the law").

2. A municipality cannot be liable for punitive damages on a claim predicated upon an alleged violation of 42 U.S.C. § 1981. See Walters v. City of Atlanta, 803 F.2d 1135, 1148 (11th Cir. 1986).

3. A municipality cannot be liable for punitive damages on a 42 U.S.C. § 1983 claim. See City of Newport v. Fact Concerts, Inc., 453 U.S. 247, 271 (1981).

WHEREFORE, Defendant City of Eufaula's motion to strike should be granted, and the Plaintiff's punitive damages claim should be struck.

/s/ James H. Pike
James H. Pike (PIK003)
Attorney for Defendant
City of Eufaula, Alabama

OF COUNSEL:

COBB, SHEALY, CRUM & DERRICK, P.A.
P.O. Box 6346
Dothan, AL 36302-6346
Tel. (334) 677-3000
Fax (334) 677-0030
E-mail: jpike@cobb-shealy.com

CERTIFICATE OF SERVICE

I, James H. Pike, certify that on July 19, 2005, I electronically served a copy of
the foregoing document on:

Malcolm R. Newman
P.O. Box 6137
Dothan, AL 36302-6137

/s/ James H. Pike
James H. Pike